

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1917-05
Bill No.: SCS for SB 535
Subject: Insurance Department; Insurance - General; Credit and Bankruptcy
Type: Original
Date: March 30, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance (INS)** state the proposal provides that starting in 2003 examination fees exceeding the tax liability may be carried forward until the full amount has been deducted, not to exceed five years. INS states the proposal would revise credit for reinsurance, reporting requirements for reinsurers, trust fund reporting and liquidation/insolvency issues. INS states the proposal would add requirements for appointment of special deputies and rehabilitators. INS further states the proposal would eliminate restrictions on non-resident surplus lines licenses under 384.043 to achieve reciprocity requirements under federal GLB. The proposal would increase current bond requirement of \$10,000 to \$100,000. It would also add statutory codification of insurance accounting principles (statements of statutory accounting principles (SSAP)).

INS states that in 1997 examination fees exceeding tax liability was \$2,014,964 and was \$1,843,054 for 1998. Using this information, INS estimates that \$1,929,009 in examination fees would be carried forward each year split between General Revenue and County Foreign Insurance Fund. INS would need to re-write the premium tax credit sub-system using a relational database system to allow for accounting of the tax credits and carryover from year to year. This would require approximately 760 hours of contact programming to implement. INS states contract programming costs are \$125.00 per hour. This would be a one-time cost to the Insurance Dedicated Fund during FY2005. INS further states that other than the one-time costs for modification of the premium tax system, it is anticipated that existing staff would be able to absorb the workload created by implementation of this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small insurance companies could expect to be fiscally impacted to the extent they would incur additional administrative costs as a result of the requirements of this proposal.

DESCRIPTION

This proposal would make various changes with respect to how insurance companies would be treated in liquidation proceedings. This proposal would also modify the law with respect to how certain insurance companies may invest their assets and capital.

CARRYOVER DEDUCTION FOR EXAMINATION FEES - After January 1, 2003, insurers may carry forward their deduction for examination fees which exceeds the insurer's premium tax liability to subsequent tax years, not to exceed 5 years, until the full deduction is claimed (Section 148.400).

HEALTH SERVICE CORPORATIONS/INSURANCE COMPANY DATA PROCESSING SYSTEMS (COST AND AMORTIZATION) - This proposal would modify the law regarding acquisition of data processing systems by health service corporations. The section would delete the reference to mechanical machines, allowing only electronic data processing equipment. The cost of such equipment would have an aggregate cost which would not exceed 3% of the capital and surplus of the company. The cost of the equipment would be fully amortized over a period not to exceed three years. Under current law, the cost of such a system must be amortized over a period not to exceed 10 years (Section 354.315). This proposal would also modify the law regarding insurance companies possessing data processing equipment, the cost of such system and its amortization in a similar manner (Section 375.325).

PREPAID DENTAL PLAN RESERVE REQUIREMENTS - Prepaid dental plan organizations would maintain a loss reserve to cover all uncovered liabilities on expenses arising under the policies they issue. This section would remove the requirement that these uncovered expenses be determined with generally accepted accounting principles for the actual contractual obligations with providers (Section 354.710).

INSURANCE COMPANY FEES - This proposal would allow insurers and insurance producers to charge additional incidental fees for premium installments, late payments and similar services specifically provided by law without providing written disclosure (Section 375.172).

REINSURANCE CREDIT - This proposal would modify provisions relating to credit for reinsurance when an insurance company is involved in an insolvency proceeding. This provision is modeled after the NAIC Model Law on Credit for Reinsurance. The purpose behind this section is to reinforce Missouri's actions to compel security from alien reinsurers and to enforce state requirements that the claims against insolvent aliens be valued and paid in accordance with Missouri law.

The law would be clarified to state that credit would be allowed a domestic ceding insurer when reinsurance is ceded to an insurer licensed in the ceding company's state of domicile "only as respect cession of those kinds of business which the assuming insurer is licensed or otherwise

DESCRIPTION (continued)

permitted to write or assume in this state". This section would also provide for a Lloyd's transition provision applying to reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date of August 1, 1995, and those with recoverables on direct and reinsurance business on agreements with an inception date of July 31, 1995, which are not amended or renewed. Trusts would provide financial statements that would be filed with domestic regulators within 90 days of that filing date. These statements would be a clarification as to the solvency of each underwriter in the group or if that would not be available, financial statements prepared by public accountants of each group member.

If the assuming insurer in a non-U.S. insurer using a multiple beneficiary trust fund, then the reinsurer would waive certain rights under U.S. Bankruptcy Code. In the reinsurance agreement, the trust fund reinsurer would agree that if its fund would be found to be inadequate or the reinsurer would be found to be insolvent, the trustee would comply with an order to transfer control of the trust to the commissioner with regulatory oversight. The trustee would agree that the assets would be distributed by, and claims would be filed with and valued by, the commissioner subject to the laws for liquidation of insurers of the state of oversight. The commissioner with regulatory oversight may, upon a finding of the trust being inadequate, require the trustee to distribute funds in accordance with the trust agreement (Section 375.246).

AUTOMOBILES AS ASSETS - This proposal would repeal the section of law which allowed certain types of insurance companies (stock, mutual or reciprocal insurance companies) to hold automobiles as admitted assets if they met certain conditions (Section 375.326).

INSURANCE COMPANY INVESTMENTS - This proposal would modify the law regarding the authority of insurance companies to purchase or sell of financial futures and contracts. Under this proposal, an insurance company could not invest in derivatives at any one time an aggregate amount of more than the limit applicable to the securities underlying the derivatives. This proposal would also modify the rulemaking capability of the Director of Insurance regarding the requirements for the accounting treatment, reporting and statement value and investment limits of the purchase and sale of and investment in any derivative (Section 375.345).

This proposal would repeal a section of current law which prohibited an insurer from showing a certificate of contribution in its financial statements as an admitted asset (Section 375.774).

REHABILITATOR'S AND LIQUIDATOR'S EMPLOYEES - The Director may hire employees to assist him in his duties as rehabilitator but no employee hired would not be related within the second degree by blood or marriage to the rehabilitator, the special duty rehabilitator, or to any law firm or consulting firm receiving fees from the insurer's assets. The liquidator's employees, legal counsel and other personnel would not be related within the second degree by blood or marriage to the liquidator, special duty liquidator, or any law firm or other persons receiving fees

DESCRIPTION (continued)

from the insurer's assets.

REHABILITATOR PURSUING CRIMINAL OR TORTIOUS CONDUCT - Would require the court to approve rehabilitator's legal actions before the rehabilitator pursues them. The court would consider the costs and benefits of pursuing such a legal action before approving the rehabilitator's legal action. The court may impose conditions on the rehabilitator's pursuit of legal remedies so that the insurer's assets would be conserved.

ATTORNEY GENERAL AND APPEALS - The Attorney General and rehabilitator would agree on whether to appeal a lower court decision releasing a company from rehabilitation (Section 375.1168).

SPECIAL DEPUTY REHABILITATOR - A special deputy would not be anyone who served as a special deputy rehabilitator for the same insurer unless a court determines that such appointment would contribute to conserving the assets of the insurer. Would remove requirement that liquidator file with the Director of Insurance a statement reflecting the insurer's claim reserves. This proposal would also remove the power of the director to issue orders barring reinsurers from reinsuring insurers if the reinsurer fails to post letters of credit (375.1176).

LIQUIDATOR EMPLOYEES AND APPEALS - Liquidator employees may not be related within the 2nd degree by blood or marriage to the liquidator, nor would employees of law firms and other persons receiving substantial fees from the insurer's assets be related within the 2nd degree to the liquidator. Any appeals by the liquidator to a higher court from a lower court would be taken only if both the liquidator and the attorney general agree the appeal is appropriate (Section 375.1182).

AMOUNTS RECOVERABLE BY LIQUIDATOR FROM REINSURERS - This proposal states that payment made to an insured or other creditor would not diminish the reinsurer's obligation to the insurer's estate except where the reinsurance contract specifically provides payment to the named insured in the event of the ceding insurer's insolvency or where the assuming insurer has assumed the ceding insurer's policy obligations. If a life and health insurance guaranty association has elected to succeed to the rights and obligations of an insolvent insurer, then the reinsurer's liability to pay covered reinsured claims would continue under the reinsurance contract (Section 375.1202).

INVESTMENT OF SURPLUS AND RESERVE FUNDS OF LIFE INSURANCE COMPANIES - This proposal would broaden the categories in which life insurance companies could invest their capital, reserves and surplus. This section would also require domestic life insurers would maintain assets which would be diversified and reasonably liquid. This section would also

DESCRIPTION (continued)

prohibit life insurers from having assets to cover policyholder obligations in certain investments (Section 376.300).

LIMITATIONS ON INVESTMENTS IN CANADIAN SECURITIES - This section would remove the prohibition on life insurance companies from investing more than 1% of its assets in any one enumerated investment or that the aggregate amount of its investments would not exceed 10% of its admitted assets (Section 376.301).

INVESTMENTS IN INTERNATIONAL AND FOREIGN BANKS - This proposal would remove the restriction that a life insurance company investment in certain bonds and notes could not in the aggregate exceed 2% of the admitted assets of the company (Section 376.303).

INVESTMENT IN COMMON STOCKS - This proposal would repeal certain investment restrictions on common stocks for life insurance companies (Section 376.305).

STOCK COMPANY INVESTMENTS - This proposal would add additional categories in which the minimum capital required of a stock company would be invested in. The minimum capital amount would be invested in any asset approved by the Director of Insurance which meets certain enumerated qualifications (Section 379.080).

SURPLUS LINES INSURANCE LICENSING REQUIREMENTS - This section would allow the Director of Insurance to issue a surplus lines license to any holder of a current resident or nonresident property and casualty license. Current law is limited to a resident holder of a property and casualty license. This section would change the amount of the bond a surplus lines licensee has to file from \$10,000 to \$100,000 or equal to the sum of the tax liability of the previous year, whichever is smaller (Section 384.043).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance



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Director

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